Unemployment Insurance Review

January 1968

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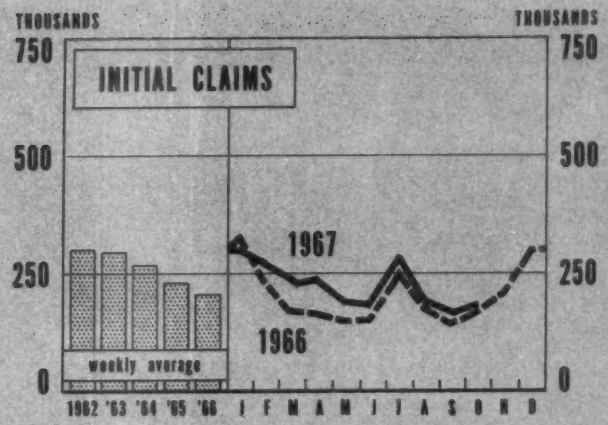
- Self-incrimination in UI Fraud Proceedings
- Consultants Aid Review of UI Adjudication Principles

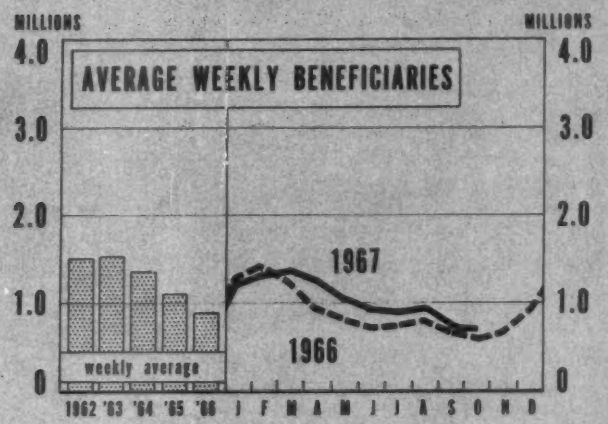
UNITED STATES DEPARTMENT OF LABOR
Manpower Administration

UNEMPLOYMENT INSURANCE ACTIVITIES

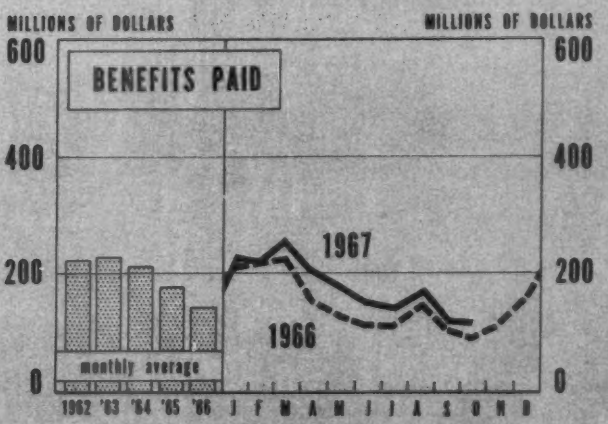
UNDER STATE PROGRAMS



Initial claims under State programs averaged 179,800 per week in October—up 14 percent and slightly less than seasonal for that time of year. Compared with October 1966 initial claims were some 8 percent higher.



The number of beneficiaries under regular State programs averaged 713,500 in October, down 6 percent from September but 21 percent higher than October 1966



Benefits paid to insured jobless workers under State programs totaled $122.1 million in October, about $0.5 million below September but $28.4 million higher than a year ago.

Unemployment Insurance Review

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U.S. DEPARTMENT OF LABOR
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The following two articles were adapted from two papers presented at the Legal Affairs Conference held at Sante Fe, N. Mex., August 29–31, 1967. The conference was sponsored by the Bureau of Employment Security in cooperation with the Legal Affairs Committee of the Interstate Conference of Employment Security Agencies.

Because of the special interest of adjudication staff of the State agencies in the subjects discussed and the wide variety of opinion concerning them, the Review *will be pleased to publish brief expressions by its readers of their views on these subjects in a future issue. Observations should be limited to approximately 600 words and mailed directly to Editor,* Unemployment Insurance Review, *Bureau of Employment Security, U.S. Department of Labor, Washington, D.C. 20210.*

Claimant Representation in UI Adjudication Proceedings

Melvin L. Bellar

WHEN the subject of claimant representation in unemployment insurance adjudication proceedings is raised, the first thought is of the attorney-client form of representation. We are a nation steeped in the image of the Clarence Darrows and Perry Masons. We read and hear daily of the great trials throughout the land wherein the private advocate champions the cause of his client. It is no wonder that this concept of representation is so deeply rooted in the minds of not only the attorney but the layman as well.

In this article I suggest that the carryover of this concept of representation into the administrative process has been the chief stumbling block to the realistic accomplishment of *fair hearing* in the great mass of quasi-judicial administrative determinations involving claims for unemployment insurance, social security, welfare, and other social benefits.

Let me hasten to add that I do not intend to minimize in any way the importance of attorney representation. I do hope to show, however, that attorney representation is only a segment of the greater and far more realistic concept of claimant representation which must become paramount and central in our thinking if we are to have fair determinations in the vast majority of UI claims. To this end those of us who are concerned with administrative adjudication should reexamine not only our attitudes and concepts toward claimant representation but also our basic understanding of the purpose of the administrative hearing process and the purpose of the unemployment insurance program.

Mr. Bellar is General Counsel, Louisiana Division of Employment Security.

Public Interest

While administrative law is concerned with the impact of the administrative process on private rights, it is most usually created to protect the public interest. Public rights and private rights are often intermingled. (*Garner et al* v. *Teamsters et al*, 74 S. Ct. 161, 346 U.S. 485.)

I would like to suggest most strongly that we recognize clearly and for all time to come that in

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the fulfillment of the unemployment insurance program the State employment security agencies are carrying out the dictates of the people as agents and representatives of the people to effect a public purpose in the public interest. All State laws contain language similar to section 1471 of the Louisiana Employment Security Law which provides, in pertinent part:

> The Legislature therefore declares that in its considered judgment the public good and general welfare of the citizens of this State require the enactment of this measure.

Responsible and proper administration of the program requires that every claimant who is entitled to UI benefits receive them and that every claimant who is not entitled to benefits not receive them. This is the responsibility of those who administer the program to the public in the public interest. Inherent within that responsibility is the absolute necessity of fully developing every fact and pursuing every procedure necessary to accomplish an intelligent and judicious decision on each claim, whether or not the parties are represented by counsel and regardless of the inability or ineptness of the parties. The full procurement of the rights of the individual is synonymous with the fulfillment of this public duty. Only that initiative which he, by law, is required to exert must be exacted from him.

In my judgment, the fulfillment of this responsibility is the real meaning of the fair hearing requirements of both Federal and State law. It is the view which is being slowly but surely arrived at by the courts. The full recognition and acceptance of this responsibility is the only sensible answer to the problem of adequate claimant representation in UI adjudication proceedings at the administrative level.

Purpose of Hearing

From what has been said thus far, I hope it may be clearly seen that the purpose of the hearing is to find out in the public interest whether the particular claimant is or is not entitled to UI benefits. It is *not* its purpose to give adverse parties a forum in which to orally battle their dispute while the hearing officer or referee looks on and enforces the rules of the game. The hearing official or referee must do far more than conduct a hearing and apply rules of evidence and procedure between adverse parties; he must be the diligent seeker of truth, and on his own initiative whenever necessary.

As was pointed out in the case of *Lawrence* v. *Leach, Administrator* (202 N.E. 2d 703, 120 Ohio 411) by the Ohio Court of Appeals, "The hearing on unemployment compensation claims before a referee or Board of Review is not an adversary proceeding involving burden of proof, must be fair and must comply with the rules requiring a party not represented by counsel or agent to be advised of his rights, aided in examining witnesses and given every assistance compatible with the functions of the Board of Review." This and similar pronouncements show very clearly the emerging concept of the responsibility of the referee to represent fully the legitimate interests of all parties concerned. I do not believe the court would hold a different view as to the referee's responsibility even if the claimant were represented by counsel if such representation were deficient in fully developing the facts necessary to a fair hearing.

In the case of *Giddens* v. *Appeal Board of Michigan Emp. Sec. Com.* (145 N.W. 2d 294) the Michigan Court of Appeals made clear its position when it stated, "So long as the rules of procedure before a referee permit parties to appear before a referee without counsel, in effect mandating the referee to raise *sua sponte* the niceties of the rules of evidence, rigorous and technical adherence to those rules may not be exacted upon appeal if the Court is satisfied on the entire record before it that the findings of the lower tribunal were correct."

Thus we see that the court is primarily interested in seeing that the record before it is adequate and the findings are correct. The referee could not meet these generally accepted requirements of the courts if he did not proceed to adequately represent the legitimate interests of all parties.

The growing number of cases that are being remanded by the courts for further hearings before a referee or board of review is also indicative of the increasing realization by the courts that the hearing officer is not exercising his independent responsibility to develop all essential facts necessary to a fair decision in the case. I believe that it may safely be said that most courts now use this criterion in considering the question of remand upon judicial review. (*81 C.J.S., Social Security and Public Welfare*, sec. 233, p. 349, *Immel* v. *Brown, Adm.*, 143 So. 2d 156.)

Attorney Representation

Because of the fact that hearings on UI claims must be conducted in accordance with "due process of law," and the right to be represented by private counsel is one of the requirements of due process, all parties to the hearing are entitled to be represented by private counsel at their expense if they so choose. (94 Fed. Supp. 18, 219 Fed. 2d 404.)

It has been generally held and accepted, however, that parties who come before administrative tribunals are not entitled as a right to have private counsel furnished to them. The sixth amendment of the Constitution applies only to "all criminal prosecutions." (*Bowles* v. *Baer*, 142 F. 2d 787.)

As we have previously seen, the constitutional duty is for the administrative agency to provide a fair hearing, with or without private counsel. All State employment security laws provide that claimants *may* be represented by counsel or other duly authorized agent at the administrative or judicial level. The presence or absence of any such statute would seem to be immaterial, however, in view of the constitutional requirements already established. These statutes also limit the amount of attorney fees generally to an amount fixed by the administrative agency. These provisions are held to be a valid exercise of the legislative power so long as the fees are not set so low as to, in reality, deprive the claimant of his right to be represented. (*Queener* v. *Mills*, 167 S.W. 2d 1, *Davis* v. *Avnet*, 65 A. 2d 308, 192 Md. 626.)

In a recent Mississippi case, the Mississippi Supreme Court indicated that when the inadequacy of the allowed statutory fee acts as a block to representation, such inadequacy must be asserted at the administrative level. In that particular case, the claimant complained through his attorney that he could not get an attorney to travel to Jackson, Miss., to represent him before the Board of Review for the fee of $15 allowed by the statute, but that if he could not get an attorney to appear at the hearing the Board of Review should proceed with the case anyway—which the board did. The attorney then complained upon judicial review that because of the inadequate fee his client had been denied his right to representation and due process of law. The court reversed the board on other grounds, but failed to rule on the question of inadequacy of the fee because the claimant had consented to the board's taking up the case in his absence. (*Mississippi Emp. Sec. Com.* v. *Wilks*, 156 So. 2d 583.) The import of this decision seems to be sound in view of the fact that the administrative process is not required to provide private counsel and that the objection to such denial was waived. It is fairly apparent, however, from the tone of the decision that if the claimant had not authorized the board to proceed in his absence and had instead pleaded the objection before the board the court would have found the statutory fee of $15 to be so low as to be an arbitrary abuse of administrative discretion and would have compelled the board to set a reasonable fee in line with the exigencies of the case.

From the development in this area, it seems at this time that the attorney must first furnish his service and then protest the inadequacy of the fee when the fee has actually been set at an inadequate level by the agency. The important thing, insofar as the question of claimant representation is concerned, is for the administrative agency to recognize its responsibility in view of the legal work and time involved and not be arbitrary in the exercise of its discretion. In this question as well as in all others we see the critical importance of the correct administration of our public responsibility to the ultimate accomplishment of adequate representation for the claimant.

With regard to that portion of the statutory provisions which allows a claimant to be represented at the hearing by one other than an attorney it is safe to speculate that most courts would follow the decision reached by the Missouri Supreme Court in *Hoffmeister* v. *Tod*, 349 S.W. 2d 5, where the court held, "So far as a statute and rule purported to permit a layman to appear before agencies concerned with unemployment compensation as a duly authorized agent and to do there what is the practice of law, they are wholly void." There are probably some areas where claimants legitimately could be represented by laymen without runing afoul of the unauthorized practice of law. One situation which comes to mind would be a labor dispute case involving multiple claims where the business agent by consent is allowed to represent the members of the union insofar as the testimony as to the facts is concerned. In so doing he is not representing as an attorney but as "duly authorized agent" in a substantive capacity.

It is my view that in keeping with our administrative responsibility we should not allow a layman to act as attorney for a claimant. If this matter is

in doubt in any jurisdiction, an advisory opinion or declaratory judgment might be obtained in order to clarify understanding and prevent ill will. Public relations is also a part of administrative responsibility.

One of the chief hindrances to adequate attorney representation is the requirement obtaining in a number of States that the claimant must file his petition at the seat of the State capitol and is not allowed to seek judicial review in the county where he lives or worked. It is apparent that such a requirement severely limits the availability of judicial review to claimants and makes the problem of attorney representation far more difficult and costly. If adequate claimant representation is our concern, then we should make the court and the attorney at least as available to the UI claimant as we do to litigants in tort actions. Here again we see the importance of broadening our concept of representation beyond the narrow confines of the attorney-client relationship so as to include all aspects that are essential to effective representation.

Payment of Attorney Fees

The question of who should pay the attorney's fee in civil actions has been with us as long as there has been a legal profession. Great legal scholars have debated the question for centuries. I do not presume to make out a compelling case for one position or the other. I would like, however, to examine some of the rationale in the light of our particular problem. All who have studied the problem seem to fall into one of two categories: (1) Those who think that the "making whole" of the successful litigant should include the payment of all reasonably necessary costs incurred by the litigant; and (2) those who think that such a requirement would make it too risky for the litigant of modest or limited means to pursue what he believes to be his legal rights through litigation and would foment litigation by attorneys. Attached to the second group are those who feel that the attorney-client relationship is strictly a personal matter between the client and his attorney and should have no relation to the outcome of the case.

As our American system of justice developed it is apparent that those who espoused the latter view dominated and the attorney's fee has remained a matter strictly between the private litigant and his attorney except where legislation specifically authorizes an award of such fees. Legislative deviation from the general rule is slowly but surely broadening. Each year some State passes legislation allowing for the awarding of attorney fees in some specific situation, for example, cases involving the dissolving of unlawful seizures and attachments, cases of arbitrary failure to pay wages when legally due, and so on. No hue or cry has arisen from any source, to my knowledge, that these exceptions to the attorney fee rule have worked any hardship, restricted litigation, or interfered with the attorney-client relationship.

The general rule was simply in existence at the time administrative law and judicial review came into being and was carried over without serious consideration by most States at the time of the adoption of their employment security law.

What good reasons are there for requiring the UI claimant, who has been illegally denied his unemployment compensation benefits, to pay the necessary attorney's fee out of his own pocket? Would it make litigation for the poor risky? Would it foment litigation? Would it interfere with the attorney-client relationship? What are the good and just reasons for requiring an employer, who has gone to court to resist an unlawful tax collection or other unlawful action by the State, to pay the necessary attorney's fee out of his own pocket? I cannot think of one tenable reason for such a requirement. On the other hand, I see many good, valid, and just reasons to the contrary.

Whatever may have been the justification for such a rule as between private litigants, such justification disappears when the private litigant has the State itself as his transgressor. The protection of the rights and property of the individual

against the unlawful and usurping actions of the State is the very foundation of our legal and governmental system. It is tragically humorous that in this day and time a citizen must yet bear the cost of defending himself against an illegal act of his government.

The general rule seems even more archaic when applied to unemployment insurance litigation. As we have seen, the public as well as the unemployed individual has an interest in seeing to it that UI benefits are paid to the unemployed workman. We are defeating our own purpose when we allow and encourage a system whereby the unemployed worker must use a substantial portion of UI benefits to pay attorney's fees. In a moral, if not a legalistic sense, such a condition violates the clear mandate of Congress, which has declared that "such funds shall be used for the payment of unemployment insurance benefits only."

To date, only nine States have deviated from the general rule with respect to the payment of attorney fees in unemployment insurance litigation. They are Alaska, Florida, Idaho (by regulation), Maine, Nebraska, New York, Rhode Island, Washington, and Puerto Rico. The plans vary somewhat, but generally they provide for the payment by the State agency of a specified amount to the attorney who represents the successful claimant at the court level. Only Nebraska provides for payment to the successful attorney at the administrative level. The fees are fixed in various ways—some by the court, some by the agency, and some by statute. In New York the attorney may charge the claimant 10 percent of the benefits collected in addition to the State-paid fee of $150 and not more than $50 for printing and other court costs in certain cases.

In all States the award is only to the successful *claimant*. No State as yet makes provision for paying the attorney fee for the successful *employer* who as yet must defend himself against the illegal actions of the State at his own expense.

Unfortunately, even in those nine States that do make provision for some payment of attorney fees, the claimants do not appear to have been greatly assisted in obtaining representation at the judicial level. In Nebraska, for instance, only two attorney fees have been paid in the last 20 years. The general apathy of the bar and the failure of the State agencies to acquaint the bar and the public with the pertinent provisions would appear to be the main reasons for the failure of these provisions to aid the claimants in obtaining adequate representation at the judicial level.

Conclusion

After having given the question of claimant representation a closer look in the light of experience and judicial development, I am personally convinced that our future course of action should be twofold. At the administrative level we must concentrate on the development of a hearing process that is referee-centered rather than attorney-centered. At the judicial level we must make it not only possible but reasonably convenient for all citizens, claimants and employers, to obtain their rights illegally denied by the State at no cost to themselves.

The fair hearing, if properly understood and developed, should contain all the inherent representation that the claimant or the employer needs. We are going to have to do a better job in both the selection and training of the referees than we have done in the past. I personally feel that attorneys should be used in these particular positions wherever possible. We must root out all traces of the "adversary" nature of these hearings. The referee must see to it that essential testimony is obtained, even if he must continue a case and issue subpenas to essential witnesses. He must see to it that all necessary facts favorable to all parties are fully and properly developed, and must do this in such a way that the evidence will be legally competent. I do not believe that the State should pay for attorney fees at the administrative level. I believe that the State should pay an adequate salary to obtain qualified and competent referees who will provide all the representation necessary within the process of conducting a fair hearing. If the claimant or the employer chooses to be assisted by private counsel, that is his privilege; but I do not believe that the State should assume that the presence of such counsel is necessary. To do so would seem to me to be an admission that we are not determined to do the job required of us in the first place.

At the judicial review level we must eventually be honest with ourselves and admit that a court hearing *is* attorney-centered and that, in the final analysis, judicial review can be no more available than is the attorney. Once the administrative process is at an end the claimant or the employer who has been illegally deprived of some right at the

hands of the State has no recourse except through private counsel. If he is unable to obtain private counsel, or if he must pay out of his own pocket for that to which he was already entitled, then justice has not been done.

Surely we must all know that "the king *can* do wrong." When the State makes a legal error, let *it* pay—not the citizen. Can anything be more American than this?

I would, in conclusion, therefore recommend that all States adopt statutes requiring the payment of reasonable attorney fees by the State in all cases where the private citizen is successful in his litigation against the State. If this is beyond reach, then we should at least push for the allowance of attorney fees to the successful UI claimant, for his is the most urgent and compelling case of all.

We must, if we are truly interested in claimant representation, do all in our power to encourage those attorneys who are presently willing to represent claimants in judicial review. We should not hesitate to publicize the need for such representation at bar association meetings. We should encourage the handling of such cases by the local Legal Aid Society wherever available. A nucleus of attorneys can be developed in each community which will represent such claimants if we make reasonable effort in that direction.

We have long mouthed the platitude that "justice is not a luxury." Sometimes I wonder if we really mean it.

Self-incrimination in UI Fraud Proceedings

Fred F. Dremann

ONE of the special tasks of the legal staff of the State employment security agencies is to investigate and prosecute misdemeanor cases which may be tried before lay justices or city courts and in some cases higher courts.

The principal problem arises from investigation and interrogation of persons who are suspected of violations of the State unemployment insurance statutes which provide for fine and imprisonment as punishment. The main question posed by administrators of the program is: At what point must we fully advise the person as to his privilege against self-incrimination and his right to counsel and his right to be provided with counsel?

Both the privilege against self-incrimination and the right to counsel grew out of and in the framework of judicial (or quasi-judicial) proceedings and the compulsion by law to appear and testify. The majority of the States in their employment security laws relieve a person from prosecution or penalties where he is forced to testify over his claim of privilege, thus extending the new judicial principle and concept into nonjudicial proceedings.

Mr. Dremann is General Counsel, Utah Department of Employment.

At issue is whether any right of interrogation, in the absence of counsel, should obtain once it appears likely that the questioned person will become a criminal defendant.

The privilege against self-incrimination and the right to legal counsel have been considerably broadened by the recent cases examined at some length herein. There is a movement or rather a giant leap toward new rights in a field where none existed before.

Legal Framework

The earliest confession cases in the U.S. Supreme Court emerged from Federal prosecutions and were settled on a nonconstitutional basis, the Court adopting the common-law rule that the absence of inducements, promises, and threats made a confession voluntary and admissible. The test was heightened to voluntariness in fact. The Court's initial emphasis was on reliability supplemented by concern over police practices and eventually by close attention to the individual's state of mind and capacity for effective choice. There was a continuing reevaluation of the facts of each case as to how much pressure on the subject was permissible.

The criteria taken into account were threats of imminent danger, physical deprivations such as lack of sleep or food, repeated and extended interrogation, limits on access to counsel or friends, length and illegality of detention under law, individual weaknesses or capacities.

Then came the recent case of *Haynes* v. *State of Washington*, 373 U.S. 503, 83 S. Ct. 1336. Haynes had been held some 16 hours in violation of State law before signing a confession, had received no warnings of any kind, had been denied access to his wife or counsel, the police indicating that access would be allowed after a confession. Emphasizing especially this last inducement and rejecting some contrary indicia of voluntariness, the Court in a 5-to-4 decision held the confession inadmissible.

This was followed by the 5-to-4 decision in the case of *Escobedo* v. *State of Illinois*, 378 U.S. 478, 84 S. Ct. 1758, 12 L. Ed. 2d 977 (June 26, 1964). In this case, notwithstanding repeated requests by each, the petitioner and his retained lawyer were afforded no opportunity to consult during the course of the entire interrogation. The petitioner testified that he heard a detective telling the attorney that he could not see the petitioner until "we were through interrogating him." The petitioner testified that he was kept handcuffed and standing and that the officer said to him in Spanish that "my sister and I could go home if I pinned it on Di Gerlando," that "he would see to it that we would go home and be held only as witnesses, if anything, if we had made a statement against Di Gerlando * * * that we would be able to go home that night." He also testified that he made the statement in issue because of this assurance. He admitted knowledge of the crime and implicated himself in the murder plot.

Motions to suppress the incriminating statement were made but the motions were denied. The petitioner was convicted of murder.

The Illinois Supreme Court reversed the decision holding the statement inadmissible pointing out that the defendant understood that if he gave the statement he would be permitted to go home and would be granted an immunity from prosecution.

On rehearing, the Illinois Supreme Court affirmed the conviction and found the confession to be voluntary and admissable even though "it was obtained after he had requested the assistance of counsel which request was denied," 28 Ill. 2d 46, 190 N.E. 2d 827. The U.S. Supreme Court on appeal said:

> In *Massiah* v. *U.S.*, 377 U.S. 201, 84 S. Ct. 1199, this Court observed that "A constitution which guarantees a defendant the aid of counsel at * * * trial could surely vouchsafe no less to an indicted defendant under interrogation by the police in a completely extrajudicial proceeding. Anything less * * * might deny a defendant effective representation by counsel at the only stage when legal aid and advice would help him.
>
> Petitioner, a layman, was undoubtedly unaware that under Illinois law an admission of 'mere' complicity in the murder plot was legally as damaging as an admission of firing the fatal shots * * * the 'guiding hand of counsel' was essential to advise petitioner of his rights in this delicate situation.
>
> In *Gideon* v. *Wainwright*, 372 U.S. 335, 83 S. Ct. 792, 9 L. Ed. 2d 799, we held that every person accused of a crime whether State or Federal is entitled to a lawyer at trial. The rule sought by the State here, however, would make the trial no more than an appeal from the interrogation; and the right to use counsel at the formal trial [would be] a very hollow thing [if] for all practical purposes, the conviction is already assured by pretrial examination.
>
> No system worth presenting should have to fear that if an accused is permitted to consult with a lawyer he will become aware of, and exercise, these rights. If the exercise

of constitutional rights will thwart the effectiveness of a system of law enforcement then there is something very wrong with the system. We hold, therefore, that where, as here, the investigation is no longer a general inquiry into an unsolved crime but has begun to focus an a particular suspect, the suspect has been taken into police custody, the police carry out a process of interrogation that lends itself to eliciting incriminating statements, the suspect has requested and been denied an opportunity to consult with his lawyer, and the police have not effectively warned him of his absolute constitutional right to remain silent, the accused has been denied 'the Assistance of Counsel' in violation of the sixth amendment to the Constitution as, 'made obligatory upon the States by the 14th amendment * * * and that no statement elicited by the police during the interrogation may be used against him at a criminal trial.'

The accused may, of course, intelligently and knowingly waive his privilege against self-incrimination and his right to counsel either at a pretrial stage or at trial. See *Johnson* v. *Zerbst*, 304 U.S. 458, 58 S. Ct. 1019, 82 L. Ed. 1461. But no knowing and intelligent waiver of any constitutional right can be said to have occurred under the circumstances of this case.

There was a strong dissent by Justices Harlan, White, Clark, and Stewart pointing out that the Court by abandoning the voluntary-involuntary test for admissibility of confessions has established an impenetrable barrier to interrogation once the accused has become a suspect.

The Supreme Court in *Miranda* v. *Arizona*, 384 U.S. 436, 16 L. Ed. 2d 694 further extended the holding in *Escobedo* above, 86 S. Ct. 1602, 10 ALR 3d 974, and laid down the following rules which will be applied in the future:

> The Prosecution may not use statements whether exculpatory or inculpatory stemming from *custodial interrogation* of defendant unless it demonstrates use of procedural safeguards effective to secure privilege against self-incrimination. (U.S.C.A. Const. Amend. 5.)
>
> "Custodial interrogation" within the rule limiting admissibility of statements stemming from such interrogation, means questioning initiated by law enforcement officers after person has been taken into custody or otherwise deprived of his freedom of action in any significant way. (Amend. 5.)
>
> The constitutional foundation underlying the privilege against self-incrimination is the respect a government, State or Federal, must accord to dignity and integrity of its citizens.
>
> Individuals swept from familiar surroundings into police custody, surrounded by antagonistic forces and subjected to techniques or persuasion employed by police cannot be otherwise than under compulsion to speak.
>
> Fifth amendment privilege is available outside of criminal court proceedings and serves to protect persons in all settings in which their freedom of action is curtailed from being compelled to incriminate themselves.

In the *Miranda* as well as in *Escobedo* v. *Illinois* citations defendants in the several combined cases were taken into custody and interrogated in police stations without effective advice of their right to remain silent or of their right to consult an attorney. The Court said:

We have undertaken a thorough reexamination of the *Escobedo* decision and the principles it announced, and we reaffirm it. That case was but an explication of basic rights that are enshrined in our Constitution—that no person * * * "shall be compelled in any criminal case to be a witness against himself" and that "the accused shall * * * have the Assistance of Counsel * * *."

The constitutional issue we decide in each of these cases is the admissibility of statements obtained from a defendant questioned while in custody or otherwise deprived of his freedom of action in any significant way.

They all share salient features—incommunicado interrogation of individuals in a police-dominated atmosphere, resulting in self-incriminating statements without full warnings of constitutional rights.

After discussing police practices the Court said:

Again we stress that the modern practice of in-custody interrogation is psychologically rather than physically oriented * * *. Interrogation still takes place in privacy. Privacy results in secrecy and this results in turn in a gap in our knowledge as to what in fact goes on in the interrogation rooms.

The officers are told by the manuals that the "principal psychological factor contributing to a successful interrogation is privacy—being alone with the person under interrogation." The efficacy of this tactic has been explained as follows:

"If at all practicable, the interrogation should take place in the investigator's office or at least in a room of his own choice. The subject should be deprived of every psychological advantage. In his own home he may be confident, indignant, or recalcitrant. He is more keenly aware of his rights and more reluctant to tell of his indiscretions or criminal behavior within the walls of his own home. Moreover his family and other friends are nearby, their presence lending moral support. In his office the investigator possesses all of the advantages. The atmosphere suggests the invincibility of the forces of the law."

In the cases before us today we concern ourselves primarily with this interrogation atmosphere and the evils it can bring.

Unless adequate protective devices are employed to dispel the compulsion inherent in custodial surroundings,

no statement obtained from the defendant can truly be the product of his free choice.

The Court stated that the constitutional foundation underlying the privilege is the respect a government—State or Federal—must accord to the dignity and integrity of its citizens. To maintain a "fair state—individual balance," to require the "government to shoulder the entire load," to respect the inviolability of the human personality, our accusatory system of criminal justice demands that the government seeking to punish an individual produce the evidence against him by its own independent labors, rather than by the cruel, simple expedient of compelling it from his own mouth. The Court said:

> The question in these cases is whether the privilege is fully applicable during a period of custodial interrogation.
>
> A different phase of the *Escobedo* decision was significant in its attention to the absence of counsel during the questioning. There as in the cases today we sought a protective device to dispel the compelling atmosphere of the interrogation. In *Escobedo*, however, the police did not relieve the defendant of the anxieties which they had created in the interrogation rooms. Rather, they denied his request for assistance of counsel.
>
> Today then, there can be no doubt that the Fifth Amendment privilege is available outside of criminal court proceedings and serves to protect persons in all settings in which their freedom of action is curtailed in any significant way from being compelled to incriminate themselves. We have concluded that without proper safeguards the process of in-custody interrogations of persons suspected or accused of crime contains inherently compelling pressures which work to undermine the individual's will to resist and to compel him to speak where he would not otherwise do so freely * * *.
>
> In order fully to apprise a person interrogated of the extent of his rights under this system then, it is necessary to warn him not only that he has the right to consult with an attorney but also that if he is indigent a lawyer will be appointed to represent him.
>
> Once warnings have been given, the subsequent procedure is clear. If the individual indicates in any manner, at any time prior to or during questioning that he wishes to remain silent, the interrogation must cease. At this point he has shown that he intends to exercise his Fifth Amendment privilege; any statement taken after the person invokes his privilege cannot be other than the product of compulsion, subtle or otherwise.
>
> Presuming waiver from a silent record is impermissible. The record must show, or there must be an allegation and evidence, which shows, that an accused was offered counsel but intelligently and understandingly rejected the offer.
>
> Confessions remain a proper element in law enforcement. Any statement given freely and voluntarily without any compelling influence is, of course, admissible in evidence * * *. There is no requirement that police stop a person who enters a police station and states that he wishes to confess a crime, or a person who calls the police to offer a confession or any other statement he desires to make.

The Court, quoting from Federal Bureau of Investigation practice continued, "The standard warning long given by special agents of the FBI to both suspects and persons under arrest is that the person has the right to say nothing and a right to counsel and that any statement he does make may be used against him in court." Now he "must also be advised of his right to free counsel if he is unable to pay and the fact that such counsel will be assigned by the judge."

The Court pointed out that the several States were free to develop their own safeguards "so long as they were fully as effective as those described above," meaning the decision. The Court (1618) said, "In these cases we might not find the defendants' statements involuntary in traditional terms * * * and then proceed to fashion a constitutional rule that the police may not engage in any custodial interrogation without advising the accused of his right under the Fifth Amendment to counsel free or otherwise."

Application of *Gault*, 87 S. Ct. 1428 (1967), extended the rule to juveniles. In this case a 15-year-old juvenile was committed to the State juvenile institution for a period of 6 years. A writ of *habeas corpus* was filed and was dismissed. The dismissal and the matter were appealed to the U.S. Supreme Court on the specific grounds that the juvenile had been denied the following basic rights: (1) Notice of charges, (2) right to counsel, (3) right to confrontation and cross-examination, (4) privilege against self-incrimination, (5) right to a transcript of the proceedings, and (6) right to appellate review.

The Court in applying the fifth amendment to statements of juveniles said, "In the first place juvenile proceedings to determine 'delinquency' which may lead to commitment to a State institution, must be regarded as 'criminal' for purposes of the privilege against self-incrimination * * * for this purpose at least, commitment is a deprivation of liberty. It is incarceration against one's will, whether it be called 'criminal' or 'civil.' And our Constitution guarantees that no person shall be 'compelled' to be a witness against himself when he is threatened with deprivation of his liberty—*a command which this Court has broadly applied and generously implemented in accordance with the teachings of the history of the privilege* and

its great office in mankind's battle for freedom. See *Miranda* v. *State of Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966)" [Italic supplied.]

The Court referred to *Murphy* v. *Waterfront Commission*, 378 U.S. 52, 84 S. Ct. 1944, 12 L. Ed. 2d 678 where the Court said:

> The privilege can be claimed in *any proceeding*, be it criminal or civil, administrative or judicial, investigatory or adjudicatory * * * it protects *any disclosures* which the witness may reasonably apprehend *could be used in a criminal prosecution or which could lead to other evidence that might be so used.* [Emphasis supplied.] (For a discussion of Right to Counsel in misdemeanor cases see *California Law Review* 48 at 501, 505–506, 509–10 (1960).)

In Indiana (alone of all the States) it has been held that the constitutional right to appointed counsel extends to misdemeanor cases, *Bolkavac* v. *State*, 229 Ind. 294, 98 N.E. 2d 250 (1951).

In *Gideon* v. *Wainwright*, 372 U.S. 335, 344 (1963) the U.S. Supreme Court speaks of the right to counsel of "one charged with a crime." In many legal quarters this breadth of language has already inspired the conclusion that counsel must be provided in other than felony cases, 38 *Washington Law Review* 667, 697 (1963) The Right to Counsel in Minnesota: 48 *Minnesota Law Review* 1, 64–66 (1963). Clearly the availability of counsel ought not to depend on a State's characterization of the offense as a felony or misdemeanor. The terms are too disparate in significance among the several States to make that the dividing line.

There is warrant for the notion that the constitutional line ought to be drawn at the point where a jail sentence may follow conviction, *Commonwealth* v. *Koczwara*, 155 A. 2d 825 (1959). The hazards of attempting to apply such a rule ad hoc, looking to the probabilities in practice rather than the legally permissible sanction militates against this approach but the strong inference of the *Miranda* and *Escobedo* cases may well make the rule necessary.

The answer may lie in a reexamination of the penalties assigned to minor offenses. Were this done and many misdemeanors stripped of their rarely imposed jail sanctions, the system of providing counsel wherever the charge threatens incarceration could operate without undue hardship to the bar or unreasonable cost to the public. It may well be good practice to have counsel for a person against whom a proceeding is brought by a government agency where counsel is representing such agency. This position finds support in the fact that inequality of representation between the State and the accused is a factor which has figured in the right to counsel cases. *Douglas* v. *California*, 372 U.S. 353, 357–58 (1963).

It may well be in practice that the defendant's rights receive greater protection when the prosecutor is an attorney than when no lawyer is present in the capacity of either judge or advocate.

As pointed out earlier the dissent in the *Escobedo* case by Justices Harlan, White, Clark, and Stewart made the specific point that the Court by abandoning the voluntary-involuntary test for admissibility of confessions established an impenetrable barrier to interrogation once the accused has become a suspect.

At the present time there is no unanimity between judges, prosecutors, and defense counsel as to whether it is necessary to appoint counsel in misdemeanor cases tried in inferior courts. There is a tendency for city and district judges to appoint counsel in the more serious misdemeanor cases such as driving under the influence of intoxicating liquor.

Under the usual statutory scheme the jurisdiction of the inferior courts is limited to offenses bearing a penalty of a fine in a sum less than $300 and imprisonment not exceeding 6 months.

It would seem clear under the *Miranda* cases cited above that counsel must be provided where there is a possibility of incarceration. The natural and inevitable long-range result will be that the inferior courts will insist on counsel in misdemeanor cases.

The Supreme Court in the *Miranda* cases is dealing with "custodial interrogation" which is discussed in the broad sense as that being conducted in an atmosphere in which the person being questioned was beset with anxieties and inherently compelling pressures working to undermine his will to resist and compelling him to speak when he would not otherwise do so freely.

An interview and interrogation in the office of an official of government may well be said to constitute a "custodial interrogation" but questioning a suspect in his own home in the presence of his own family probably would not be so defined.

In the *Miranda* cases the Court spoke with approval of the practice of the Federal Bureau of Investigation in fully advising all persons accused or about to be accused of their privilege against

self-incrimination and their right to their own or appointed counsel.

Left unmentioned were the practical problems of actually providing appointed counsel where the person is not in actual custody although he is being questioned to obtain information which will support a prosecution. Legal aid organizations and the Office of Economic Opportunity legal services would fall far short of being adequate if all persons who were advised of their right to counsel indicated a desire for counsel.

A recent study of police interrogation and confessions in Washington, D.C., disclosed that nine out of 10 suspects do not accept free legal assistance offered prior to questioning. Only 7.3 percent of all persons arrested on felony or serious misdemeanor charges requested free legal aid. The rate was higher for more serious offenses. About 48 percent said they were questioned before the lawyer arrived. About a third of these were questioned only at the time and place of arrest and many lawyers think this is permissible under the *Miranda* decision.

If they are correct in their surmise (and we think time will prove them wrong) then interrogation of a person suspected of violating a State's unemployment insurance statute would not require the usual warnings as to rights against self-incrimination and the right to counsel—at least when the person was outside the office of the investigator or not appearing in response to a subpoena or written order.

Effect on State ES Agencies

The practice of the courts will to a large extent dictate the practice of the State employment security agencies and, for a time at least, allow for a variation in such practice between different jurisdictions. At the present time free legal service is neither legally authorized nor available in all jurisdictions. Justices of the Peace have no legal authority to incur charges for such purpose and city courts must be specifically authorized by superior courts to so encumber public funds.

A practical difficulty lies in the fact that in many smaller court jurisdictions no attorneys are available.

We note that some city courts in misdemeanor and felony cases will no longer accept a plea (guilty or not guilty) in the absence of counsel and will not admit statements from the accused as evidence unless they were given after adequate warnings as to self-incrimination and right to counsel.

If a State agency uses or intends to use statements given by the claimant at the adjudication stage as a basis for prosecution then, in order to make the defendant's statements admissable, the necessary warning must be given.

The use of self-incriminating statements as the basis for a *civil* disqualification *only* would not violate the rule laid down by the Supreme Court, since the rule applies to matters where incarceration is a likely result of the interrogation and prosecution.

In those States where the law frees the claimant from *prosecution* or *any penalty* if he is forced to testify over his objection, he would not be subject to *any* disqualification. In such States, as a practical matter, in the usual adjudication, all interrogation should cease at the point at which he claims his privilege and the determination should be made on the basis of the facts as determined by the adjudicator. And in such States the fraud investigator, at least in office interviews, could not use statements obtained over the claimant's objection as a basis for prosecution. Thus he must rely on a development of the case from other sources.

It would appear that we must warn a claimant or employer of his right at the point at which he becomes suspected of violating the fraud provisions of our State employment security laws. If he refuses after an adequate warning to testify or asks to have counsel present or requests the appointment of counsel, interrogation must cease until counsel is present.

If he asks that counsel be appointed at govern-

ment expense, we must, in the absence of specific authority to spend money for such purpose, abandon such interrogation and obtain the necessary evidence from other sources.

Since the U.S. Supreme Court is in effect saying that any statement or admission obtained in a "custodial" situation is involuntary per se we are essentially forced for purposes of operational guidelines to define what is meant by a "custodial" situation, and by so doing define the noncustodial statements or admissions.

Admissions that are self-incriminating and are volunteered in the office or in writing in the mails or that are written and then delivered to our offices appear to be voluntary per se and usable if properly identified and connected with the person being charged with a violation. The Court appears to be saying that statements taken in the person's home would be admissable (at least in the absence of proven threats or undue pressure on the part of the interrogator). Unmonitored written statements by persons claiming benefits which are incriminating would appear to be voluntary as would false statements placed on claim forms.

We can only surmise what the total impact of the *Escobedo* and *Miranda* decisions on unemployment insurance operations will be. Today there are many grey areas. Many of these grey areas will give rise to new decisions involving a number of those presented here.

The pendulum of this new revolution in human rights may swing even further before adjusting to an equating of the rights of the individual with the need for protecting the victim and the public.

Consultants Aid Review of UI Adjudication Principles

Edward A. Wood

THE unemployment insurance benefit appeals process, consistent with the basic concepts of administrative adjudication, attempts to insure the traditional democratic safeguards to fair treatment in combination with administrative effectiveness. Flexibility of format permitted by administrative adjudication has afforded an opportunity for procedural adaptations compatible with circumstances in which the claimant often is not represented, not skillfully articulate, and not expertly knowledgeable in the law and his rights.

Twenty years ago the Bureau of Employment Security issued a statement on *Principles Underlying Benefit Appeals Procedures* (Unemployment Compensation Program Letter No. 144, Nov. 17, 1947) which provided some guidance in how to apply the fair hearing concept to unemployment benefit appeals. Much of that statement still has validity. There have, however, been many changes

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since that statement was prepared, leading to the conclusion that a present need exists for a careful revision of the Bureau's statement of fundamental guidance concerning the benefit appeals process.

In some part, the conclusion reflects an appraisal of the circumstances surrounding the preparation of the 1947 statement. When it was issued, all of us who were involved in benefit appeals adjudication were still concerned with the implications of the immediate post-World War II situation. The preceding year, 1946, had seen appeals workloads that had been insignificantly small all during the war jump suddenly to large and unprecedented heights. Large backlogs developed and claimant concerns with long waits for decisions were quickly transferred into public concern and pressures to break the appeals logjams. To meet their appeals adjudication needs, States were often forced to recruit referees with little or no previous experience in appeals adjudications. The Bureau's 1947 statement reflected this and said that it was intended "to serve a useful purpose in training new appeals personnel." As such, it deliberately stressed fundamental and elementary principles and, at the risk of oversimplification, restricted itself to broad and basic statements.

Such simplified approaches could be better afforded in 1947, when the State unemployment insurance laws and the benefit appeals situations they produced were simpler than they are in 1967. In the 20 years that have elapsed laws and benefit appeals problems have become more complex. Changes have occurred in everything from the descriptions of jobs to the very nature of the problems of unemployment, all with some impact on the appeals process.

There has been an increase both in the amount of and the sophistication of employer representation. Greater opportunity for claimant representation has been afforded by the expanding role of unions and the increasing availability of legal aid and community legal services units sponsored by the Office of Juvenile Delinquency and Youth Development, the Office of Economic Opportunity, and other governmental and nongovernmental organizations. More numerous proposals have been made to encompass unemployment benefit appeals in State administrative procedures acts, which often include provisions drawn with regulatory agencies, inherently adversary proceedings, and issues entailing substantial sums of money in mind.

Because of the changes that have occurred and to utilize the experience of 30 years the Bureau is reviewing the *Principles* statement in an effort to update it and improve its usefulness. State personnel, assisting the Bureau staff in this effort through advice and consultation include:

E. A. Boynton, General Counsel, Texas Employment Commission

Jack Clevenger, Chief Referee, California Board of Review

M. F. McFarland, Chief Referee, Oregon Department of Employment

Louis J. Naftalison, Member State Unemployment Insurance Appeal Board, New York

Arnold J. Spencer, Chief Counsel, Wisconsin Unemployment Compensation Division

The author is chairman of this consultant group.

The consultant group is not requested to take positions on particular issues or to serve as representatives of their State or other interests. Their assistance to the Bureau staff responsible for the preparation of the revised statement is through counsel and advice based on their individually demonstrated capability as experts in the field of adjudication.

The consultants have met with Bureau staff twice in Washington, in October and December 1967. During the October meeting a quick but complete review was made of the entire *Principles* statement. It was generally agreed that many of the basic principles in the 1947 statement remained valid. There were excellent suggestions, however, for improved clarification and emphasis and for new material to be added. Special problems that have evolved over the years were identified as issues requiring exploration in greater depth. These were discussed in greater detail at the December meeting. Included among these subjects were single intrastate appeals on which hearings are scheduled in separate locations because of the geographic separation of the parties, the nature and extent of information concerning the appeals procedures that must be given to the parties in order to achieve a sound fair hearing process, right of reopening, current trends involving representation of parties, and the degree of the hearing officer's obligation to establish all necessary evidence.

Summaries of these discussions have been prepared as an aid to a revision of the 1947 statement which is now in progress. There is optimism that these efforts will result in a more useful guide to further improve the appeal process that has already served the purposes of the unemployment insurance program so well.

Unemployment Insurance Decisions*

White Shirt and Tie

Florida.—A salesman for a retail liquor distributor was instructed to wear a white shirt and was furnished a tie by the employer which he was to wear at all times while on duty. His workday began at 8 a.m. Three mornings a week a company truck delivered merchandise at 10 o'clock, and the claimant assisted in the unloading. During the unloading, which took about an hour, he was permitted to wear something other than the white shirt. However, the claimant repeatedly came to work in a sports shirt on the days that the truck was due and worked for 2 hours thus attired before the truck arrived. When he persisted in doing this, he was discharged.

The appeals referee pointed out that the employer retained several hundred salespersons, and they were all required to wear white shirts and ties on the job. The claimant was aware of this. While it was permissible for salespersons to put on protective clothing of some sort during the short time a truck might be unloading, this obviously would not be permissible for several hours at a time. The claimant was held to be discharged for misconduct connected with his work. (Decision Docket No. 67–1608U, affirmed by Board of Review Decision No. 67,335, Sept. 15, 1967.)

No Substitute for TV Set

Florida.—The claimant was employed as a chef in a restaurant. When his employer sold tickets for a charitable organization, he bought one and won a color TV set. His wife became concerned about the suitability of the prize and thought that some other prize should be made available, but the employer was not in a position to offer any substitute. Because of the attitude of the claimant's wife the employer assumed that the claimant would fail to report for work, and indeed the next day she telephoned and told him that her husband was not coming in. No reason was furnished as to why he would not report, and the employer told her that if her husband did not report for work it would be assumed that he had quit. After a brief absence the claimant went to the employer's establishment and picked up his pay. He made no effort to explain his absence from work or to determine if he still had a job. The referee held that the claimant left his employment voluntarily without good cause attributable to his employer. (Decision Docket No. 67–1655U, affirmed by Board of Review Decision No. 67–332, Sept. 15, 1967.)

Too Much Cargo

Massachusetts.—The claimant had worked for about 7½ years as a messenger for a company that provided armored car service to mercantile establishments. On a Tuesday the claimant was informed that after his last stop on the following Saturday he was to make another pickup. He refused the additional assignment but offered no reason to the employer for his action. He understood from statements by other employees that he would have to wait for a few hours in the location of the additional pickup for the collectors to arrive with the money he was to transport. This he considered extremely dangerous in view of the value of the cargo which he would already have collected. The employer's representative, however, testified that the claimant's truck was the most logical choice for the assignment, that the waiting time on a Saturday would not be a matter of hours as contended by the claimant, and that the value of the cargo would be considerably less on a Saturday than on other days. The claimant was held to have left voluntarily without good cause when he left the job rather than accept an assignment, usual to his occupation, without establishing that the assignment would be unreasonably dangerous or time consuming. (Appeal No. H–45719, Sept. 15, 1967.)

Minor Matter

New Mexico.—The claimant, age 14, was employed as a fountain boy at a carryout restaurant. One evening the claimant returned home after the late shift and retired with the intention of going to work the following morning. The next morning while he was getting ready to go to work, his mother told him that she had decided the day before that he must go with the family that day to visit his sister who had been out of the area and whom he would not see again for some time, and that he would have to take the time off from work. The claimant protested to his mother because he knew the employer would be angry, and he did not think he should take the time off. Even thought he was in tears, his mother insisted. The claimant phoned the employer and told him that he would not be in as scheduled because he had to go out of town. The employer did not give his consent to the leaving and felt that the claimant had little regard for his job. He discharged him the next Monday morning when he reported for work.

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The appeals referee ruled that the claimant was not subject to disqualification, pointing out that he was a minor and still bound to follow his parents as directed. The claimant wanted to stay on his job and knew the probable consequences of leaving without permission. The referee concluded that the claimant by his actions predictably set in motion a chain of events which resulted in his separation and constituted a voluntary leaving of work but for a personal, compelling cause not attributable to the employer. The claimant was granted benefits, but under the New Mexico law the employer was relieved of liability in connection with his claim for benefits. (Appeal No. 670–67–U, Sept. 22, 1967.)

Peace Pipe Needed

South Carolina.—The Commission found that a patroller employed in a synthetic fiber plant accepted her supervisor's invitation to "Indian wrestle" with him during a softball game. The claimant not only won the bout but "chopped" him and continued "until you could hear the bones crack in his hand." The supervisor kicked her but bystanders stopped the developing struggle. The next night the claimant's job was running so smoothly that she began to count some of the filaments out of regular order. This was not her function, and the supervisor told her to stop. When she indicated that she would continue, an argument developed during which she threatened to slap the supervisor. A battle ensued in which, according to a witness, "they were pushing one another back and forth into the machines" and fighting "all the way down to the end" of the aisle. Both required first aid treatment, and the next day the claimant was discharged. During an investigation of the fracas, the claimant admitted to a witness that she had been counting filaments against orders and that she did understand that she was not to do so. The supervisor did not appear at the hearing, but a personnel representative testified he was badly scratched, cut, and bruised, and his clothing was torn.

The Commission found that the claimant was discharged not for fighting (because the employer realized that "there was a difference in versions" thereof) but for "wilful refusal to follow instructions and making threatening remarks to a supervisor." The Commission held that the claimant was discharged for misconduct connected with her work, concluding: "She scarcely displayed the degree of cooperation or respect for the instructions of a supervisor reasonably expected of an employee." However she was given "the near minimum degree of disqualification." (Decision No. 67–C–80, Oct. 6, 1967.)

Trends in the Economy*

THE NATION'S ECONOMY in October was adversely affected by major strike activity in the transportation equipment and mining industries; as a result many economic indicators were down. Industrial production declined for the second consecutive month, and new orders for both durable goods and factory shipments moved lower. Largely reflecting a decline in automobile sales, retail sales fell by 2 percent. Unemployment showed a counterseasonal rise, with most of the increase occurring among teenagers and adult men. As a consequence, the seasonally adjusted jobless rate moved up from 4.1 to 4.3 percent, marking the second consecutive monthly rise and the highest rate in 2 years. On the positive side, housing starts advanced strongly to a 1.5 million unit seasonally adjusted annual rate, and permits for future construction rose by nearly 4 percent. Personal income was also higher in October, but the gain was the smallest in 7 months.

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Business Activity

The index of *industrial production* declined slightly in October for the second consecutive month, moving down by half a point to 156.2 percent of the 1957–59 average; a year earlier, the index stood at 159.4 percent. October 1967 marked the tenth consecutive month that the index re-

mained below the record 159.5 percent set in December 1966.

October's decline was attributed mainly to work stoppages in manufacturing and mining and also reflected further cutbacks in crude oil production following heavy output earlier this year as a result of the situation in the Middle East.

Production between September and October of nearly all other categories of items remained unchanged or declined slightly. The only truly bright spots were in output of defense equipment and commercial aircraft which showed further advances.

Auto assemblies stood at 135 percent of the 1957–59 base, with 641,400 domestic new cars produced. This was slightly higher than September's 133.4 percent but far below the 177.8 percent of October 1966. The auto industry was hit hard by the Ford strike; a year ago Ford produced 243,000 cars, while in October 1967 none were manufactured.

A total of 11.2 million tons of steel was poured, carrying the index of iron and steel production to 127 percent—the same level as in September but considerably below the 137.6 percent of a year ago. As strike activity in the copper mines continued, the index of mining output dropped by 4 points to 121 percent. The utilities index showed improvement, rising from 185 percent in September to 186 percent.

New orders for durable goods in October continued to slip, edging down to a seasonally adjusted level of $22.5 billion; this compared with $23.2 billion in September and $23.7 billion posted in both August and in July 1966. The over-the-month decline largely reflected a slowdown in industries supplying the strike-affected automobile industry. Transportation equipment orders dropped by $300 million to $5.5 billion (despite a rise in the aerospace sector), compared with the $6.9 billion volume of a year earlier. New orders for primary metals and machinery were also down; the former by $200 million to $3.5 billion, while the latter moved down from $7.2 billion to $7.0 billion. A year earlier, the levels were $3.8 billion and $7.2 billion, respectively.

Factory shipments of durable goods declined to a seasonally adjusted volume of $22.2 billion in October, some $600 million below the prior month. Shipments of primary metals and machinery maintained their September levels, but shipments of transportation equipment declined. With new orders higher than shipments, the *backlog of durable goods orders* increased for the sixth consecutive month, rising by $400 million to $77.6 billion at the end of October. A year earlier, the unfilled orders backlog totaled $76.4 billion. The aircraft segment of the transportation equipment industry continued to account for most of the rise.

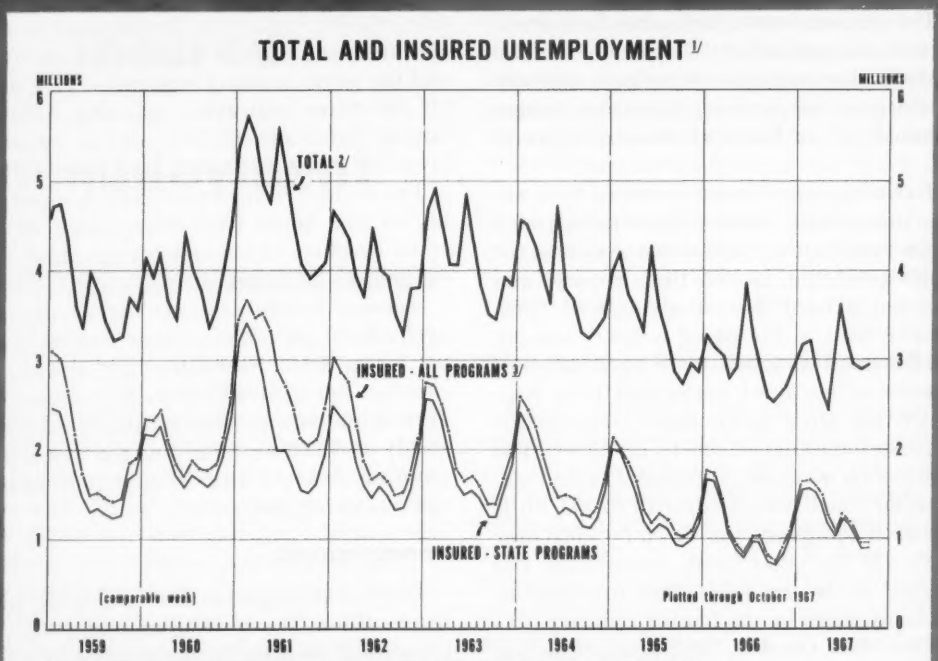
Housing starts in October rose by 4.7 percent to a seasonally adjusted annual rate of 1,495,000 units, the fourth successive monthly gain. The current rate contrasted sharply with the year-earlier volume of 845,000 units. The advance was uneven across the country. A sharp jump in the North Central region and a smaller gain in the West more than offset declines in the Northeast and the South.

Permits for future construction were issued at a seasonally adjusted annual rate of 1,202,000—up from September's 1,159,000 and strongly above the 718,000 in October 1966. Permits in all categories were higher; the issuance for single-family homes, at a 655,000 unit annual rate, was up by 17,000 over the month and was 222,000 above a year earlier. Permits for units to house five or more families were issued at a 461,000 annual rate, compared with 443,000 in September and 241,000 in October 1966. In the two- to four-family unit category, the pace rose by 8,000 to 86,000; this was 44,000 above the year-earlier rate.

Personal income in October registered the smallest rise in 7 months, primarily because of shrinking factory payrolls reflecting strike activity. Personal income increased over the month by $1.6 billion, or 0.3 percent, to a record $636 billion seasonally adjusted annual rate. This gain compares with a $2.8 billion rise in September.

Increases among nonmanufacturing industries were widespread and more than offset declines in the strike-hit manufacturing sector. The overall wage and salary category rose by $900 million to $429.4 billion, while factory payrolls slipped by $600 million to a $134.8 billion annual rate (seasonally adjusted). Nearly all of the decline occurred in the durable goods sector where labor disputes affected the totals both directly or indirectly in transportation equipment, primary metals, fabricated metals, and machinery. Other durable goods industries showed little change from September, and small gains took place in most soft goods industries.

Changes in the nonwage sector were diverse. Divided payments were down by $200 million to a $23.2 billion annual rate, and farm income fell by


TOTAL AND INSURED UNEMPLOYMENT 1/
MILLIONS
TOTAL 2/
INSURED - ALL PROGRAMS 3/
INSURED - STATE PROGRAMS
(comparable week)
Plotted through October 1967
1959
1960
1961
1962
1963
1964
1965
1966
1967
1/ Total unemployment includes Alaska and Hawaii beginning January 1960. Insured unemployment includes Alaska and Hawaii beginning July 1959, Puerto Rico beginning January 1961, and Puerto Rican sugar workers beginning July 1963.
2/ Source: Bureau of the Census and Bureau of Labor Statistics. Data beginning with January 1967 reflect definitional changes in employment and unemployment.
3/ Includes State, Veterans', Ex-servicemen's, Federal Civilian Employees', and Railroad Programs. Also includes Federal and State programs for temporary extension of benefits beginning June 1958.

a similar amount to a $20.2 billion annual rate. But interest income rose $400 million to $47.7 billion, and transfer payments gained by $300 million to a $52.8 billion rate.

Retail sales slipped 2 percent in October, chiefly due to a large decline in auto sales. At $26.2 billion, sales were down from September's $26.8 billion volume but were $600 million above the year-ago level.

The durable goods sector accounted for most of the loss, with sales down 7 percent over the month to $8.2 billion. A year earlier, durables sales were $8.3 billion.

Sales of nondurable goods, at $18.0 billion, were down slightly from September, but were up 4 percent from the figure recorded in October 1966.

Employment

Total civilian employment rose seasonally between September and October, moving up by some 450,000 to 75.2 million (unadjusted). Over four-fifths of the rise was in the nonagricultural sector. Compared with a year earlier, employment was some 1.4 million higher, with adult women accounting for about two-thirds of the job rise; employment among teenagers, however, was down by some 220,000.

Nonfarm payroll employment rose in October

by 118,000 to 66.2 million (seasonally adjusted). The increase was concentrated chiefly in the State and local governments (82,000) and trade (42,000) sectors. The return to work of schoolteachers previously on strike accounted for nearly one-half of the gain, while higher employment in trade made up about a third of the increase. All other changes were nominal and in line with seasonal expectations.

Manufacturing employment increased by a net 13,000 to 19.2 million (seasonally adjusted). All of the rise was in the nondurable goods sector which increased some 25,000. Both apparel and chemicals employment showed advances of 7,000, while employment in the paper industry was up by 4,000. The remaining industries reported nominal increases or remained unchanged from September. On the other hand, employment in the durable goods industries declined a net 12,000. The largest reduction occurred in the nonelectrical machinery sector which posted a drop of 30,000, while transportation equipment was down by 5,000 over the month. On the other hand, employment was 8,000 higher in the stone-clay-glass products industry and up 3,000 in the lumber industry.

Compared with October 1966, nonagricultural payroll employment was 1.5 million higher. The entire increase was a result of employment growth in the service-producing industries, most notably government (666,000), miscellaneous services (504,000), and trade (395,000). Manufacturing employment declined by 258,000 over the year to 19.4 million (unadjusted). All of the decline was in the durable goods sector, with nine of the 11 industries reporting employment reductions. The primary metals industry posted the largest decline, down some 102,700. A drop of 74,200 was recorded by transportation equipment, and electrical equipment reported a reduction of 63,500. On the other hand, the ordnance and accessories industry showed a rise of 34,800 and instruments a gain of 7,400. Employment in the nondurable goods industries increased by 52,000 between October 1966 and October 1967. The most substantial rises occurred in the printing and publishing (30,200) and chemicals (26,000) industries. Employment in the food and kindred products industry was up by 12,300, and the paper industry reported a gain of 11,600. Of the three industries reporting declines, the largest reduction—23,100—was in apparel, followed by 12,500 in leather, and 10,800 in textiles.

The *average factory workweek* dropped in October to 40.8 hours from September's 40.9 hours, while overtime in manufacturing edged down by 0.2 hour to 3.5 hours.

Average hourly earnings for all private nonagricultural payroll employees were $2.72 an hour, up 1 cent from September, but *average weekly earnings* fell to $103.63 from September's $103.79. In manufacturing, average hourly earnings held steady at $2.85 an hour, but the average weekly paycheck fell to $116.28 from $116.57 as the average workweek declined.

Unemployment

Total unemployment rose in October by 56,000 to 3.0 million. The upswing resulted from a greater than usual increase in the number of adult men and teenagers entering the labor force. As a consequence, the jobless rate (seasonally adjusted) moved up from 4.1 to 4.3 percent, marking the second consecutive monthly increase and the highest rate in 2 years. The unemployment rate for adult men rose from 2.3 percent to 2.5 percent. The jobless rate for teenagers also rose, moving up from 13.8 percent to 15.1 percent. The rate for adult women, however, edged down from 4.9 percent to 4.8 percent. The rates for both whites and nonwhites were up; the rate for whites rose from 3.6 to 3.8 percent; for nonwhites the rate jumped from 7.9 to 8.8 percent. Compared with October 1966, unemployment was 485,000 higher, with adult women accounting for one-half the rise and teenagers an additional one-third.

Insured Unemployment*

A SLIGHT RISE in insured unemployment normally occurs between September and October, but this year the weekly average volume showed a small decline despite the widely spread secondary effects of labor disputes affecting the auto industry. The October volume, at 889,200, was some 4,500 below the September figure but was 136,500 higher than a year earlier.

Seasonally adjusted, the level of insured unemployment was 1,161,900 per week, compared with 1,185,500 in September. The adjusted unemployment rate, at 2.4 percent, was unchanged.

The labor disputes in the auto industry had only slight effect on the national volume of insured unemployment; however, in the States where the secondary effects were the greatest, the impact was more significant. For the Nation as a whole, some 9,500 initial claims were filed by workers unemployed due to secondary effects of the labor disputes bringing the cumulative total of such claims through October to 20,500. Approximately 12,000 of these workers drew benefits each week.

Over-the-Month Changes Minor

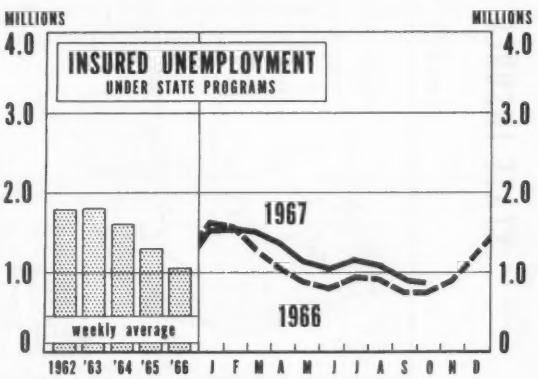
Twenty-three States posted declines in insured unemployment between September and October, with the largest drop occurring in Puerto Rico (5,200). Florida's average weekly volume was 4,500 lower, and California showed a decrease of 2,900. Other States showing reductions of 1,000 or more were Louisiana (2,200) Georgia (1,300), and Virginia (1,000). A sharp reduction in insured joblessness among sugarcane workers—usual at this time of year—was the primary factor responsible for Puerto Rico's decline. In Florida the reduction was largely among workers in the food processing, apparel, and trade industries; California also reported a drop in apparel and trade.

The largest increase was in New York (3,000); most of the rise stemmed from seasonal cutbacks in the construction industry. The secondary effects of labor disputes were in large part responsible for the increases in Missouri (2,700), Michigan (2,100), and Alabama (1,900).

Over-the-Year Rises Noted in Most States

Compared with a year earlier, insured joblessness in October was higher in 44 States, with Michigan and Pennsylvania showing the most substantial increases—18,000 each. Sharply higher volumes in trade and services were noted in both of these States. In addition, Michigan reported higher insured joblessness among workers from the transportation equipment industry, and Pennsylvania indicated reduced activity in the metals and machinery industries. Increased unemployment among workers from the metals and machinery industries was also a factor in the rises of 12,800 in Ohio and 11,300 in Illinois.

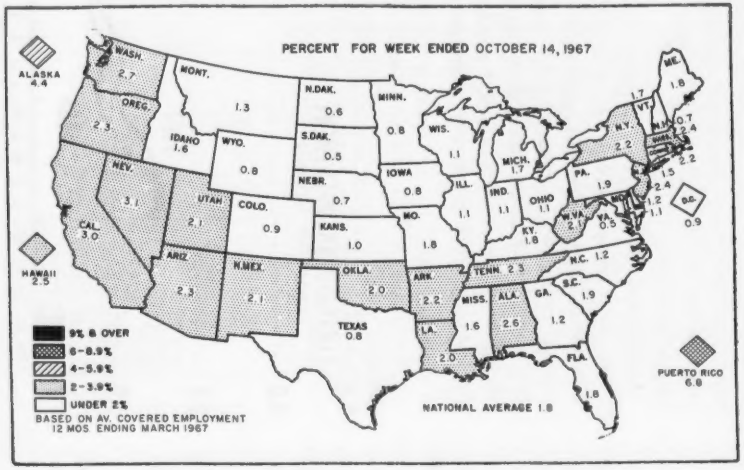
California posted the largest over-the-year drop; the weekly average this October was some 7,700 lower than the year ago figure. In that State, a sharp reduction in insured jobless among construction workers more than offset higher volumes among trade and service industry workers. Nevada was the only other State with a decline of as much



Prepared in the Office of Program Reports and Research, Administration and Management Service, Bureau of Employment Security.

STATE INSURED UNEMPLOYMENT AS PERCENT OF AVERAGE COVERED EMPLOYMENT

LATEST MONTH



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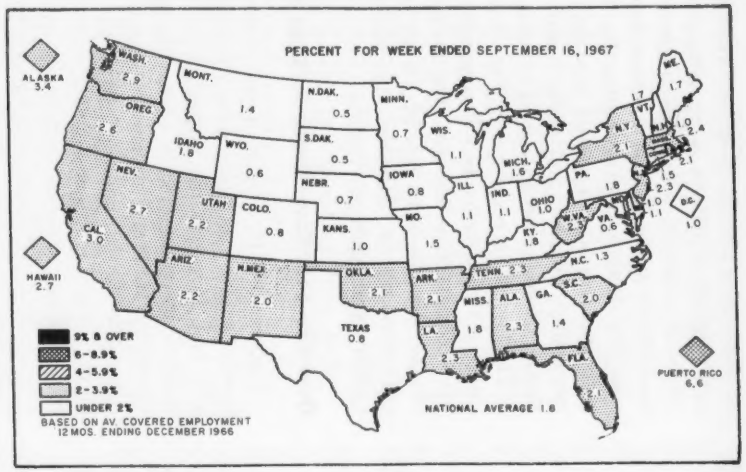

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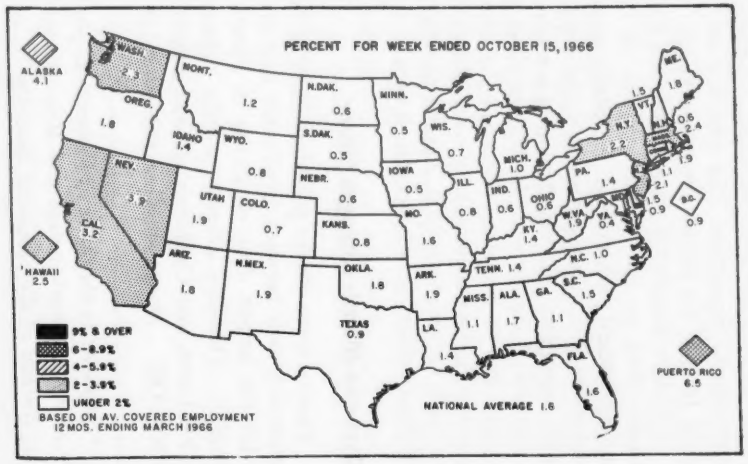

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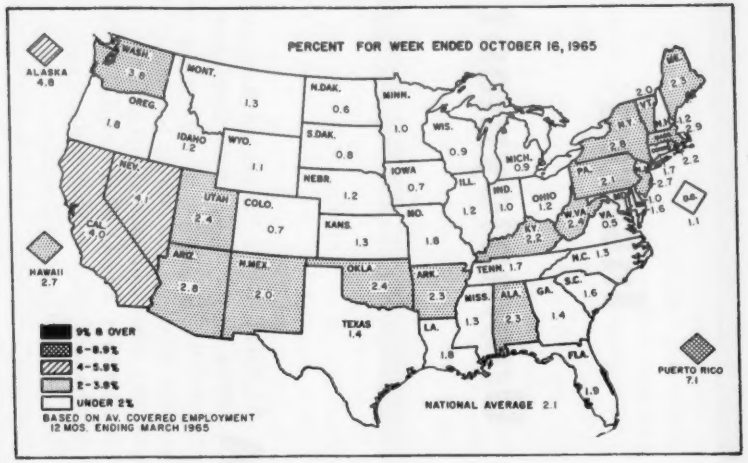

Week ended—	Initial claims [1]		Insured unemployment [1]	
	1967	1966	1967	1966
September 2	163, 100	145, 400	930, 800	800, 300
September 9	156, 700	135, 200	938, 200	777, 500
September 16	165, 700	154, 900	891, 400	755, 700
September 23	155, 600	144, 000	877, 800	743, 100
September 30	154, 300	144, 400	860, 000	725, 800
October 7	195, 000	177, 400	858, 500	730, 600
October 14	159, 100	152, 800	901, 100	752, 100
October 21	181, 200	165, 400	891, 400	754, 200
October 28	174, 200	164, 800	893, 500	767, 200
November 4	204, 500	189, 800	919, 100	782, 200
Weekly averages				
September	158, 300	144, 700	893, 700	755, 100
October	179, 800	166, 300	889, 100	752, 500

[1] Refers to State programs.

as 1,000; the reduction was among workers from trade and construction industries.

27 States Below National Average

The national rate of insured unemployment (unadjusted) was 1.8 percent in October, unchanged from September. The highest rate was reported in Puerto Rico (7.0 percent), followed by Alaska (5.3 percent), and Nevada (3.1 percent). The lowest rates occurred in South Dakota and Virginia (0.5 percent each); nine other States posted rates of less than 1.0 percent. Among the largest industrialized States, California, New Jersey, and New York reported rates above the national average—2.9 percent, 2.4 percent, and 2.1 percent, respectively. Pennsylvania, with 1.8 percent matched the national rate; Michigan, Illinois, Indiana, and Texas recorded rates below, ranging from 1.7 to 0.8 percent.

Federal Programs

Insured joblessness under the UCFE program (Unemployment Compensation for Federal Employees) moved up to 19,900 during October, rising from a September average of 18,300. Most of the rise reflected the cutback of temporary employees at Internal Revenue centers in several States. Under the UCX program (Unemployment Compensation for Ex-servicemen) the average for October was 22,300; this was 200 higher than in the previous month. Insured joblessness under both programs was somewhat higher than last October's figures of 16,100 and 13,900, respectively.

Initial Claims Up Over the Month

Initial claims for benefits under the State programs rose sharply in October, moving up by 21,500 to a weekly average of 179,800. A large portion of the increase stemmed from the effects of labor disputes. In addition, seasonal cutbacks in outdoor activities and temporary layoffs of garment workers because of religious holidays were contributing factors in the rise. Last October, the weekly average of initial claims measured 166,300.

Benefits

During October, some $122.1 million was disbursed to the insured jobless under State programs, compared with $122.6 million in September. Under the UCX program, the benefit total was $3.5

Activity [1]	Number or amount October 1967	Percent change from—		January–October cumulative (in thousands)	
		September 1967	October 1966	1967	1966
Initial claims [2]	797, 700	+20.4	+12. 6	9, 700	8, 380
Weeks claimed [2]	3, 904, 200	+2.5	+23. 9	53, 621	46, 492
Insured unemployment (weekly average) [2]	889, 200	−.5	+18. 2	1, 236	1, 071
Beneficiaries (weekly average)	713, 500	−5.9	+21. 0	1, 049	916
Benefits paid [3]	$122, 144, 600	−.4	+30. 4	$1, 798, 701	$1, 499, 251
Claimant exhaustions	65, 900	+4.0	+33. 3	736	672

[1] Data relate to State programs only.
[2] Includes agent State claims taken by the Virgin Islands; also includes data under Puerto Rico sugarcane program.
[3] Monthly data represent gross amount; cumulative data represent net amounts.

million, down by $213,000 from September. Under the UCFE program, benefits paid out amounted to $3.2 million, $121,000 higher than in the preceding month.

The average weekly benefit check under State programs for those totally unemployed in October was $40.70—some 60 cents above the September average check and 86 cents higher than October 1966. Among the States, the average weekly benefit check varied widely; Hawaii paid the highest $50.82, followed by California ($49.82), Colorado ($47.32), and Wisconsin ($46.23), while Puerto Rico showed the lowest ($22.21).

Approximately 10 percent of those drawing benefits under the State programs received checks for partial unemployment. The average payment check was $22.36, compared with $23.47 last month.

Exhaustions

During October, 65,900 persons exhausted their benefit rights under State programs, 2,500 more than in September. Although higher by 16,400 than the exhaustion figure a year earlier, the October figure was the second lowest for the month since 1953.

ERRATA.—The following corrections are noted for the November 1967 issue of the *Unemployment Insurance Review:*

In the article "UC Research in Ohio," page 14, column 1, line 3, the word "wage" should be deleted.

In the article "Advisory Committee on UI Program Research," page 15, column 2, line 21, "Ohio" should be corrected to read "Idaho."

Selected Unemployment Insurance Statistics, State Programs, October 1967

State	Initial claims received 1/ 2/	Weeks claimed 2/	Number of insured unemployed (weekly average) 3/	Number of beneficiaries (weekly average) 3/	Average weekly payments for total unemployment	Number of final payments 4/	Benefits paid 5/	12 months ending Oct. 1967 (in thousands)		Funds available Oct. 1967 7/ (in thousands)
								Benefits paid 6/	Collections and interest	
Total	8/797655	8/3904236	8/889160	713484	$40.70	65909	$122144583	$2070747	$3142734	$10645838
Alabama	12719	68888	16648	11751	3139	1226	1589157	20756	30908	113852
Alaska	2280	8397	2217	1578	4257	137	291133	9/6961	11991	10/19703
Arizona	6050	31474	7015	5503	3808	461	905364	12564	20072	79238
Arkansas	8597	33920	7855	5112	3086	598	670421	12193	16384	42756
California	129182	604775	138115	128516	4982	10276	26246043	469736	584757	906036
Colorado	3324	15418	3384	2246	4769	234	460652	10349	11713	71613
Connecticut	10795	59242	13552	12895	4309	1209	2364237	33605	63935	271501
Delaware	1665	7838	1798	1672	4154	150	297797	7212	6333	24857
Dist. of Col.	1971	13179	3027	2782	4480	195	544399	7416	11106	71528
Florida	15086	93996	20761	16063	3097	3931	2132394	19747	38115	219748
Georgia	9138	53506	12091	9077	3504	1443	1292137	19417	44584	246554
Hawaii	3265	23554	5303	4211	5082	871	890038	10748	11654	28546
Idaho	2457	10435	2345	1557	3919	158	251894	7740	10108	38308
Illinois	29129	149046	34707	29306	4192	3063	5264555	86936	76124	561045
Indiana	13896	64218	14672	12077	3659	1551	1917277	30384	61660	249743
Iowa	3591	18562	4575	3808	4520	331	727862	11036	15048	126741
Kansas	3258	18035	4130	3301	4027	311	573807	10749	18981	82203
Kentucky	8815	45689	10512	7403	3609	761	1137252	19635	31850	147710
Louisiana	9128	61915	13258	12857	3568	1272	1945458	27516	37584	157059
Maine	3784	17391	3996	3078	3297	306	398853	7787	10344	42300
Maryland	9930	41072	9599	8238	4107	570	1407940	26491	43415	221888
Massachusetts	29607	169839	38475	33849	4210	2615	5748919	92957	136957	325218
Michigan	38329	173044	40404	32684	4738	2562	6697522	119604	158021	10/623989
Minnesota	6739	26827	6908	4741	3900	594	796163	23940	46557	68840
Mississippi	4974	25666	5679	4081	2631	467	459616	7710	14133	78366
Missouri	24056	83262	19626	13416	3702	1072	1934634	33227	36844	269559
Montana	1631	7615	1749	1174	3096	135	162551	5771	6512	21676
Nebraska	1641	8957	2048	1757	3416	231	258324	6213	9585	48175
Nevada	3804	16509	3999	3095	4281	312	571686	12049	11327	29007
New Hampshire	1586	6240	1298	1030	3832	84	140489	2780	7383	40598
New Jersey	38156	186323	42770	40463	4176	3829	7156767	117564	160826	413887
New Mexico	3630	15763	3762	2653	3362	185	382812	6611	8187	38969
New York	132654	501194	115256	100950	4345	6968	17925287	314535	417027	1547574
North Carolina	13273	65285	14653	11965	3033	1165	1482649	27473	58936	302584
North Dakota	434	1982	520	345	3490	80	52126	4698	5079	7317
Ohio	29783	128224	29660	21818	3925	1796	3700781	68817	152664	577382
Oklahoma	6340	38750	8954	6035	2960	565	773688	10818	13657	58283
Oregon	13882	50536	11866	8874	4003	643	1523531	30445	38122	121210
Pennsylvania	59618	262905	59714	50016	3688	2651	7311353	106648	307889	694838
Puerto Rico	8/19109	8/228621	8/47290	13663	2221	4400	1316728	9/17729	26098	70434
Rhode Island	6395	24890	5743	4840	4089	421	825293	13736	22522	72034
South Carolina	7054	45843	10358	8540	3340	1115	1233220	15800	27708	122594
South Dakota	446	2027	427	229	3109	43	29409	1633	2722	16995
Tennessee	11543	87722	19469	15905	3145	1641	2132073	28382	48689	157656
Texas	16220	77652	17546	13959	3165	1706	1887157	27682	62191	318671
Utah	3177	19855	4465	3211	3953	269	547816	10497	12310	43507
Vermont	1745	6880	1722	1299	3913	93	201020	3895	9160	19676
Virginia	4130	20885	4459	3357	3323	462	478361	9710	24191	180163
Washington	18892	88770	20860	17319	3372	0	2509610	36952	72407	287159
West Virginia	5917	33301	7703	5732	2920	404	706339	11266	20737	81089
Wisconsin	10148	55426	12698	9320	4623	1037	1837266	40382	64702	269836
Wyoming	596	2352	521	334	3758	30	52717	2247	3954	14022

1/ Excludes transitional claims.
2/ Total includes claims taken as agent State by the Virgin Islands.
3/ Weekly data are adjusted for split weeks in the month on the basis of a 5-day work week.
4/ A final payment is the payment for the last week of compensable unemployment in a benefit year, and indicates the exhaustion of benefit rights by a claimant for that benefit year. Because of the time lapse between the actual week in which the unemployment occurs and the date on which final payment is made the monthly total includes some claimants who exhausted their rights in the preceding month but received their final payment in the reported month, and excludes some claimants who exhausted their rights in the reported month but will not receive their final payments until the succeeding month. Workers who exhaust their rights may be entitled to additional benefits when the following benefit year begins. The number of exhaustions is not indicative of the number who are still unemployed as some will have obtained employment and others may have withdrawn from the labor force.
5/ Unadjusted for voided benefit checks and transfers under interstate combined-wage plan. Includes $34,205 in payments under extended duration provisions of State laws in two States: Alaska $580 and Puerto Rico $33,625.
6/ Adjusted for voided benefit checks and transfers under interstate combined-wage plan.
7/ Includes amount credited to States' accounts in the unemployment trust fund, less withdrawals by the States, under the provisions of the Employment Security Administrative Financing Act of 1954.
8/ Includes data under the program for Puerto Rican sugarcane workers.
9/ Includes payments made under State temporary extended benefit provisions. Alaska's extended duration provisions became effective October 1, 1967.
10/ Funds available reflect an advance from Federal account in Unemployment Insurance Trust Fund.

Selected Unemployment Insurance Statistics, Federal Programs[1] October 1967

State	UCFE					UCX				
	Initial claims received 2/	Weeks claimed	Number of beneficiaries (weekly average)	Benefits paid 3/	Average weekly payments for all unemployment 4/	Initial claims received 2/	Weeks claimed	Number of beneficiaries (weekly average)	Benefits paid 3/	Average weekly payments for all unemployment 4/
Total	11140	85398	17306	$3163855	$41.55	19793	96530	18750	$3501613	$42.44
Alabama	361	3489	715	113380	36.04	463	2583	492	80475	37.17
Alaska	120	1454	320	64172	45.53	54	217	55	11026	45.75
Arizona	159	1243	253	44285	39.79	277	1493	272	48572	40.58
Arkansas	110	643	95	14712	35.20	165	925	163	26840	37.43
California	1294	14095	2789	612206	49.89	3133	18874	3750	827968	50.18
Colorado	167	854	161	35059	49.38	207	841	141	28566	46.00
Connecticut	32	430	90	17758	45.07	198	860	180	32075	40.45
Delaware	43	259	41	8423	46.54	59	181	34	6522	44.07
Dist. of Col.	221	2956	785	167546	48.54	95	432	85	16395	43.60
Florida	243	1490	184	27664	34.11	412	1782	302	48235	36.35
Georgia	349	2282	468	79663	38.71	311	1478	290	54544	42.68
Hawaii	125	1198	340	77857	51.97	171	1190	275	64842	53.59
Idaho	52	221	37	6744	41.63	68	142	23	4559	44.25
Illinois	263	3076	715	119927	38.11	656	2242	415	72895	39.92
Indiana	92	604	106	15543	33.35	306	1282	216	36126	38.03
Iowa	11	134	28	5335	43.02	98	395	103	21550	47.57
Kansas	91	664	119	21886	41.77	116	544	119	24085	45.96
Kentucky	424	1592	245	40671	37.73	465	2605	533	99695	42.48
Louisiana	131	1131	196	30994	35.91	266	2024	407	72982	40.73
Maine	12	155	41	5964	33.32	78	266	48	8512	40.15
Maryland	154	779	146	28353	44.03	302	979	210	40909	44.23
Massachusetts	370	4026	995	198874	45.42	348	2005	453	93833	47.10
Michigan	207	1492	316	57710	41.49	725	3783	775	150408	44.09
Minnesota	78	388	103	18062	39.87	229	970	216	38465	40.53
Mississippi	113	635	123	13664	25.30	83	425	85	10936	29.16
Missouri	487	1937	368	58253	36.00	446	1634	326	57164	39.89
Montana	43	214	39	5554	32.29	59	254	53	7817	33.55
Nebraska	39	372	87	13418	34.94	34	112	21	3532	37.98
Nevada	83	419	70	12735	44.74	87	444	84	16616	45.03
New Hampshire	14	65	14	2281	38.02	48	146	31	6503	47.82
New Jersey	327	2775	593	116284	44.57	640	3723	728	136841	42.74
New Mexico	143	858	193	30787	36.31	178	977	175	29228	38.01
New York	871	6735	1294	241881	42.49	1331	6030	1125	200321	40.49
North Carolina	118	662	135	18493	31.24	277	1115	208	36611	39.97
North Dakota	21	119	18	2863	35.35	58	156	28	5118	42.30
Ohio	265	2052	456	75740	37.78	1035	4166	631	112317	40.46
Oklahoma	138	1578	291	40822	31.89	135	1086	190	28618	34.31
Oregon	120	736	144	22171	35.03	325	1134	199	39315	44.88
Pennsylvania	954	6332	1129	192264	38.72	2140	8678	1693	305016	40.96
Puerto Rico	49	414	92	10125	25.12	552	3073	564	73430	29.61
Rhode Island	49	629	153	31518	46.90	125	652	135	26459	44.69
South Carolina	106	660	137	21679	36.07	186	1007	213	38322	40.94
South Dakota	31	427	85	13477	36.23	38	126	20	3238	36.38
Tennessee	308	2187	445	70774	36.16	441	3242	646	107510	37.80
Texas	525	2788	539	79106	33.34	707	2846	618	100328	36.89
Utah	366	2147	360	73682	46.58	127	810	138	25066	41.23
Vermont	12	73	10	2137	46.46	29	99	19	3804	45.83
Virginia	164	658	98	15108	35.13	164	691	101	16988	39.18
Virgin Islands	1	0	0	0	0	1	4	0	0	0
Washington	425	4026	919	147117	36.40	546	1862	386	67127	39.53
West Virginia	34	246	50	5285	24.02	455	2424	513	82708	36.65
Wisconsin	209	859	158	29228	42.05	328	1443	254	48903	43.70
Wyoming	16	140	21	3621	38.52	16	78	10	1698	40.43

1/ The programs for Federal civilian employees (UCFE) and for ex-servicemen (UCX), established under Title XV of the Social Security Act, became effective January 1, 1955, and October 27, 1958, respectively. Data exclude information on claims filed jointly with State unemployment insurance programs.

2/ Includes transitional claims.

3/ Unadjusted for voided benefit checks and transfers under interstate combined-wage plan.

4/ Includes data for total, part-total, and partial unemployment. Separate data for total unemployment are not available.

Temporary Disability Insurance Activities Under State and Railroad Programs

	First claims received		Weeks compensated		Benefits paid		Benefits paid	
	August 1967	July 1967	August 1967	July 1967	August 1967	July 1967	August 1966	July 1966
California								
State plan								
Basic benefits	54,437	47,365	327,738	295,259	$18,565,551	$16,743,790	$17,351,960	$15,195,525
Additional hospital benefits	1/29,021	1/26,191	2/208,360	2/188,085	2,500,320	2,257,020	2,601,840	2,294,604
Private plan	3,847	3,369	(3/)	(3/)	(3/)	(3/)	(3/)	(3/)
New Jersey								
State plan	10,079	6,886	71,986	59,113	2,868,407	2,357,970	2,434,643	2,130,165
Private plan	(3/)	(3/)	(3/)	(3/)	(3/)	(3/)	(3/)	(3/)
New York	(3/)	(3/)	(3/)	(3/)	(3/)	(3/)	(3/)	(3/)
Rhode Island	3,231	2,748	35,523	29,945	1,219,945	1,120,725	1,125,452	950,069
Railroad								
Sickness	9,965	26,015	4/94,848	5/68,400	3,409,754	1,771,971	3,537,817	1,908,977
Maternity	114	131	4/2,502	5/1,988	176,566	138,012	167,395	130,878

1/ Represents the number of payments made.
2/ Days for which additional hospital benefits were paid.
3/ Data not available.
4/ Estimated from data "benefit periods" compensated which number 47,424 for sickness and 1,251 for maternity.
5/ Estimated from data "benefit periods" compensated which number 34,200 for sickness and 994 for maternity.

NOTE.—A separate monthly report, *Unemployment Insurance Statistics*, provides more detailed data on unemployment insurance activities. Copies of *Unemployment Insurance Statistics* are available upon request to Unemployment Insurance Service, Bureau of Employment Security, U.S. Department of Labor, Washington, D.C., 20210.

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STATE EMPLOYMENT SECURITY AGENCIES AFFILIATED WITH THE BUREAU OF EMPLOYMENT SECURITY

(Additional information can be obtained from the State agencies listed below)

ALABAMA.....Department of Industrial Relations, Industrial Relations Building, Montgomery 36104
ALASKA.....Employment Security Division, Department of Labor, Box 3-7000, Juneau 99801
ARIZONA.....Arizona Employment Security Commission, State Employment Service, 1717 West Jefferson Street, P.O. Box 6339, Phoenix 85007; Unemployment Compensation Division, P.O. Box 6123, Phoenix 85005
ARKANSAS.....Employment Security Division, Department of Labor, Employment Security-Welfare Building, Box 2981, Little Rock 72203
CALIFORNIA.....Department of Employment, 800 Capitol Mall, Sacramento 95814
COLORADO.....Department of Employment, 1210 Sherman Street, Denver 80203
CONNECTICUT.....Connecticut Employment Security Division, Hartford 06115
DELAWARE.....Employment Security Commission, 801 West Street, Wilmington 19899
DIST. OF COL.....United States Employment Service for the District of Columbia, Employment Security Building, Sixth and Pennsylvania Avenue, N.W., Washington 20001; District Unemployment Compensation Board, Sixth and Pennsylvania Avenue, N.W., Washington 20001
FLORIDA.....Industrial Commission, Caldwell Building, Tallahassee 32304
GEORGIA.....Employment Security Agency, Department of Labor, State Labor Building, Atlanta 30334
GUAM.....Department of Labor and Personnel, Government of Guam, Agana 96910
HAWAII.....Department of Labor and Industrial Relations, 825 Mililani Street, Honolulu 96813
IDAHO.....Department of Employment, P.O. Box 7189, 317 Main Street, Boise 83707
ILLINOIS.....Employment Security Administration, Department of Labor, 165 North Canal Street, Room 200, Chicago 60606
INDIANA.....Employment Security Division, 10 North Senate Avenue, Indianapolis 46204
IOWA.....Employment Security Commission, 1000 East Grand Avenue, Des Moines 50319
KANSAS.....Employment Security Division, State Labor Department, 401 Topeka Boulevard, Topeka 66603
KENTUCKY.....Bureau of Employment Security, Department of Economic Security, New Capitol Annex Building, Frankfort 40601
LOUISIANA.....Division of Employment Security, Department of Labor, Employment Security Building, 2200 Baton Rouge Expressway, P.O. Box 44094, Capitol Station, Baton Rouge 70804
MAINE.....Employment Security Commission, 20 Union Street, Augusta 04332
MARYLAND.....Department of Employment Security, 1100 North Eutaw Street, Baltimore 21201
MASSACHUSETTS.....Division of Employment Security, 881 Commonwealth Avenue, Boston 02215
MICHIGAN.....Employment Security Commission, 510 Boulevard Building, 7310 Woodward Avenue, Detroit 48202
MINNESOTA.....Department of Employment Security, 369 Cedar Street, St. Paul 55101
MISSISSIPPI.....Employment Security Commission, P.O. Box 1699, 1520 West Capitol Street, Jackson 39205
MISSOURI.....Division of Employment Security, Department of Labor and Industrial Relations, 421 East Dunklin Street, Jefferson City 65101
MONTANA.....Unemployment Compensation Commission, Unemployment Compensation Commission Building, P.O. Box 1728, Helena 59601
NEBRASKA.....Division of Employment, Department of Labor, 550 South Sixteenth Street, P.O. Box 1033, Lincoln 68501
NEVADA.....Employment Security Department, 500 East Third Street, Carson City 89701
NEW HAMPSHIRE.....Department of Employment Security, 32 South Main Street, Concord 03301
NEW JERSEY.....Division of Employment Security, Department of Labor and Industry Building, John Fitch Plaza, Trenton 08625
NEW MEXICO.....Employment Security Commission, The National Bldg., 505 Marquette NW, P.O. Box 1928, Albuquerque 87103
NEW YORK.....Division of Employment, Department of Labor, State Office Building Campus, Albany 12201
NORTH CAROLINA.....Employment Security Commission, P.O. Box 589, Jones and North McDowell Streets, Raleigh 27602
NORTH DAKOTA.....Employment Security Bureau, 201 East Broadway, P.O. Box 1537, Bismarck 58502

OHIO.....Bureau of Unemployment Compensation, 145 South Front Street, P.O. Box 1618, Columbus 43216
OKLAHOMA.....Employment Security Commission, Will Rogers Memorial Office Building, Oklahoma City 73105
OREGON.....Department of Employment, 403 Labor and Industries Building, Salem 97310
PENNSYLVANIA.....Bureau of Employment Security, Department of Labor and Industry Building, Seventh and Forster Streets, Harrisburg 17121
PUERTO RICO.....Bureau of Employment Security, 414 Barbosa Avenue, Hato Rey, San Juan 00923
RHODE ISLAND.....Department of Employment Security, 24 Mason Street, Providence 02903
SOUTH CAROLINA.....Employment Security Commission, 1225 Laurel Street, P.O. Box 995, Columbia 29202
SOUTH DAKOTA.....Employment Security Department, 607 North Fourth Street, Aberdeen 57401
TENNESSEE.....Department of Employment Security, Cordell Hull State Office Building, Nashville 37219
TEXAS.....Texas Employment Commission, TEC Building, Austin 78701
UTAH.....Department of Employment Security, Industrial Commission, 174 Social Hall Avenue, P.O. Box 11 249, Salt Lake City 84111
VERMONT.....Department of Employment Security, Green Mountain Dr., P.O. Box 488, Montpelier 05602
VIRGINIA.....Virginia Employment Commission, 703 East Main Street, P.O. Box 1358, Richmond 23211
VIRGIN ISLANDS.....Virgin Islands Employment Security Agency, P.O. Box 1092, Charlotte Amalie, St. Thomas 00802
WASHINGTON.....Employment Security Department, Employment Security Building, P.O. Box 367, Olympia 98501
WEST VIRGINIA.....Department of Employment Security, State Office Building, California and Washington Streets, Charleston 25305
WISCONSIN.....Wisconsin State Employment Service, P.O. Box 1607, 4802 Sheboygan Avenue, Madison 53701; Unemployment Compensation Department, P.O. Box 644, 4802 Sheboygan Avenue, Madison 53701
WYOMING.....Employment Security Commission, ESC Building, Center and Midwest Streets, P.O. Box 760, Casper 82602

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